

ADMINISTRATIVE RULES

HAWAII

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 100.1

ADULT RESIDENTIAL CARE HOMES

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Historical Note: Chapter 11-100.1 is based substantially upon chapters 11-100 and 11-101.
[Eff R]

Subchapter 1 General Requirements

§11-100.1-1 Purpose. This chapter establishes

minimum standards and requirements for the licensure of
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adult residential care homes (ARCH) and expanded ARCHs in order to protect the health, safety, welfare and civil rights of the residents residing in the ARCH and expanded ARCH. Services shall be provided in a cooperative manner with the intent to promote the dignity and choice of the resident in a home-like environment. The rules are not intended to intrude on the privacy or infringe on the desire of individuals to provide care or services to another in their own home, but where such services are provided for a fee, the department reserves the right to ensure compliance with this chapter. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-2 Definitions. As used in this chapter:

"Abuse" means actual or imminent physical injury, psychological abuse or neglect, financial exploitation, negligent treatment, or maltreatment, as further defined by section 346-222, HRS.

"Activities of daily living", or "ADL" means basic services required to be provided by the facility for benefit of residents in order to obtain and maintain a license and shall include, but not be limited to, the following: personal care, shelter, protection, supervision, assistance, guidance or training, planned activities, food service, laundering of personal clothing, recognition of and provision for changes in health status, and arrangement for and transportation to medical and dental offices.

"Adult residential care home", or "ARCH" means any facility providing twenty four hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, but who do not need the professional health services of an intermediate, skilled nursing, or acute care facility.

It does not include facilities operated by the federal government. There shall be two types of ARCHs:

- (1) Type I home for five or less residents; and
- (2) Type II home for six or more residents.

"Advanced directive" means a written or oral

declaration made by a competent adult, instructing his

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or her physician to provide, withhold, or withdraw life-sustaining procedures under certain conditions such as a terminal condition or where the resident has a permanent loss of ability to communicate with others due to irreversible brain injury or coma. (An advanced directive is often referred to as a living will.)

"Advanced practice registered nurse", or "APRN" means a registered nurse who is licensed pursuant to chapter 457, HRS.

"Ambulatory" means the ability to move on foot from place to place without human assistance.

"ARCH resident" means a person unrelated to the primary care giver and licensee who resides in an ARCH.

Individuals residing in an ARCH require minimal assistance in the activities of daily living, and do not need assistance from skilled, professional personnel on a regular long-term basis.

"Assistive devices" means a physical or mechanical apparatus or equipment required by an individual for ambulation or mobility.

"Cardiopulmonary resuscitation certification", or "CPR certification" means verification that an individual has satisfactorily completed a course provided by a nationally approved source that contains instruction and required participation in an emergency first aid procedure that consists of opening and maintaining a resident's airway, providing artificial ventilation by means of rescue breathing, and providing artificial circulation by means of external cardiac compression.

"Care plan" means a written plan developed by the resident, resident's family, legal guardian or surrogate, case manager, staff of the ARCH or expanded ARCH, and resident's physician or APRN that articulates the overall plan of care to be provided to the resident by the ARCH or expanded ARCH with the purpose of achieving the optimal level of function of the resident.

"Case manager" (as it applies to an expanded ARCH) means an individual other than the licensee or staff of the expanded ARCH who is licensed in the state as a registered nurse or social worker and possesses the skills and knowledge required to deal with the long term care needs of the geriatric population. This

individual shall have the ability to plan, locate, coordinate, and monitor comprehensive services to meet

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the individual resident's needs based on a comprehensive assessment of the resident.

"Category 3 adult residential care home" means an ARCH which was established and licensed prior to 1986, and was providing only room and board services to individuals that did not require twenty four hour supervision and personal care services, and whose licensee does not meet requirements as set forth in section 11-100.1-8.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

"Comprehensive assessment" means an evaluation which includes, but is not limited to, medically defined conditions and prior medical history, medical status measurement, physical and mental functional status, sensory and physical impairments, nutritional status and requirements, special treatments or procedures, mental psychosocial status, discharge potential, dental condition, activities potential, cognitive status and drug therapy.

"Convenience" means any action taken by the licensee or care giver to control resident behavior or maintain residents with a lesser amount of effort by the licensee or care giver and not in the resident's best interest.

"Day care client" means any person who does not reside in the ARCH or expanded ARCH and requires temporary supervision during the hours that the person's care giver, outside of the ARCH or expanded ARCH, is unavailable. This person requires minimal assistance in the activities of daily living and does not need the professional health services of an intermediate, skilled nursing, or acute care facility.

This person does not stay overnight in the ARCH or expanded ARCH but shall be characterized as a resident for purposes of an ARCH's or expanded ARCH's licensed capacity.

"Department" means the department of health, State of Hawaii.

"DHS" means the department of human services, State of Hawaii.

"Dietitian" means a person who is registered by

the Commission on Dietetics Registration of the American Dietetic Association or is eligible for such registration.

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"Director" means the director of health, State of Hawaii or his designee.

"Discipline" means any action taken by the licensee or care giver for the purpose of punishing or penalizing residents.

"Emergency" means an event or incident occurring while an ARCH or expanded ARCH resident is under the care of a primary care giver or ARCH or expanded ARCH licensee, whereby a resident experiences physical or mental changes which necessitate care or services which cannot be provided by the ARCH or expanded ARCH.

"Expanded ARCH" means any facility providing twenty four hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, and who may need the professional health services provided in an intermediate care facility or skilled nursing facility. There shall be two types of expanded ARCHs:

- (1) Type I home shall consist of five or less residents with no more than two nursing facility level residents; and
- (2) Type II home shall consist of six or more residents with no more than twenty per cent of the home's licensed capacity as nursing facility level residents, provided that more nursing facility level residents may be allowed at the discretion of the department.

"Expanded ARCH resident" means a person that meets the certification requirements of section 321-15.6 1(a) (1) and (2), HRS.

"Fire Safety Evaluation System rating", or "FSES" means an assessment conducted by a Life Safety Consultant to ensure compliance with the prescriptive code requirements of the National Fire Protection Association (NFPA) 101 life safety codes.

"First aid certification" means verification that an individual has successfully completed a course that provides instruction on basic first aid principles, including but not limited to rescue breathing procedures.

"Fully ambulatory" means the ability to move on foot from place to place without the use of any mechanical device and/or human assistance.

"Home health agency" means a licensed public or

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proprietary agency, a private nonprofit organization, or a subdivision of such agency or organization which is primarily engaged in providing direct or indirect skilled nursing services and other therapeutic services under a physician's direction to homebound patients on a part-time or intermittent basis (in a place used as the individual's home). A homebound patient is a person who, because of a condition due to illness or injury, is restricted in his/her ability to leave his/her place of residence except with the aid of supportive devices including but not limited to, crutches, canes, wheelchairs, walkers, special transportation, or with the assistance of another person; or a person who has a condition which is such that leaving his/her home is medically contraindicated.

"Infection control" means procedures established for the identification, prevention and control of infections.

"Interim care plan" means a care plan developed by a registered nurse for an expanded ARCH resident within forty-eight hours of the expanded ARCH resident's admission to an expanded ARCH. The interim care plan shall identify the immediate needs of the expanded ARCH resident and shall be based on information, including but not limited to physician or APRN progress notes, the hospital discharge summary, and the emergency room discharge. The interim care plan shall provide sufficient information to the licensee or primary care giver and shall set forth a plan to meet the immediate needs of the resident until a comprehensive care plan can be developed within seven days of the expanded ARCH resident's admission to the expanded ARCH.

"Intermediate care facility", or "ICF" means a facility which provides appropriate care to persons:

- (1) Referred by a physician;
- (2) Who need twenty four hour a day assistance with the activities of daily living;
- (3) Who need care provided by licensed nursing and paramedical personnel on a regular, long-term basis; and
- (4) Who do not need twenty four hour a day

skilled nursing care.

"Licensee" means the person, group of persons, or entity that holds the license to operate an ARCH or expanded ARCH and who is responsible for the supervision of the ARCH or expanded ARCH and the

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residents therein.

"Licensed capacity" means the number of residents and the type of residents permitted by the director, pursuant to these rules and chapter 321, HRS, in a particular ARCH or expanded ARCH, and so stated on the particular ARCH's or expanded ARCH's license.

"Licensed nurse" means a person who is either a licensed practical nurse or a registered professional nurse.

"Licensed practical nurse", or "LPN" means a person who is licensed as a practical nurse pursuant to chapter 457, HRS.

"Life safety consultant" means an individual who has experience in conducting fire or life safety inspections of facilities utilizing county and national fire codes and standards.

"Minimal assistance in activities of daily living" means the provision of services including but not limited to, stand-by assistance, set up, verbal cues or prompting, and visual supervision.

"National Fire Protection Association", or "NFPA" means the association that publishes the national fire codes.

"Nurse aide" means a person who performs a variety of duties relating to patients and patient care under the supervision of a nurse, including but not limited to assisting patients in all activities of daily living. A nurse aide may also assist a nurse by changing bed linens, delivering messages, and sterilizing instruments, serving and collecting food trays, and helping patients get out of bed, bathe, and dress.

"Nursing facility level of care" means the level of care provided at skilled nursing facilities or at intermediate care facilities.

"Occupational therapist" means a person who is currently registered or eligible for registration by the American Occupational Therapy Association, and who meets the qualifications under chapter 457G, HRS.

"Personal care services" means daily personal

attention and care, including but not limited to skin, nails, hair, teeth, and oral hygiene in addition to any therapeutic regimen ordered by the resident's physician or APRN.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment

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attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

"Physical therapist" means a person who is licensed as a physical therapist under chapter 461J, HRS.

"Physician" means a person who is licensed to practice medicine or osteopathy under chapters 453 or 460, HRS.

"Plan of correction" means a plan developed by the licensee to address deficiencies in the operation of an ARCH or expanded ARCH as detected by the department pursuant to an inspection and/or complaint investigation that shall include preventive measures to ensure compliance with this chapter and chapter 321, HRS, and the time frame in which these corrections shall take place.

"Primary care giver" means the licensee or the individual designated as the primary care giver by the licensee pursuant to section 11-100.1-8.

"Provisional licensure" means a temporary license issued by the department that allows the licensee additional time to correct deficiencies without putting the immediate health, welfare and safety of residents at risk.

"Registered professional nurse" means a person who is licensed as a registered nurse under chapter 457, HRS.

"Representative payee" means an individual who meets the requirements of the Social Security Administration to receive a Social Security payment on behalf of a resident of an ARCH or expanded ARCH pursuant to §1605, 42 CFR, U.S. Code 1385.

"Resident of a category 3 ARCH" means a person unrelated to the primary care giver who resides in the category 3 ARCH, for a fee, and requires room and board which includes a place to sleep, the preparation of meals and laundering of personal clothing. These residents do not require assistance with activities of

daily living, and when such care is required, the resident shall be transferred to an appropriate facility.

"Responsible agency" means any public or private agency that has responsibility for the health, welfare, or financial support of the resident.

"Self preservation" means the ability of an ARCH

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or expanded ARCH resident to ambulate without physical assistance, and the ability of the resident to follow directions and take appropriate action in exiting an ARCH or expanded ARCH in the event of an emergency.

"Skilled nursing" means care and services provided by a licensed nurse.

"Skilled nursing facility", or "SNF" means a health facility which provides skilled nursing and related services to residents who require medical or nursing care, or rehabilitation services, including but not limited to physical therapy, occupational therapy and speech therapy services.

"Social model of care" means the provision of care that promotes the individuality, dignity, choice, independence, and privacy of an ARCH or expanded ARCH resident in a home-like atmosphere and that provides for the inclusion of the resident, the resident's family, and resident's surrogate in the development of the resident's schedule of activities and/or care plan and in all decision-making affecting the resident.

"Social worker" means a person licensed as a social worker pursuant to chapter 467E, HRS.

"Special diet" means a diet ordered by a physician or APRN that is prescribed as part of the medical nutrition therapy of an ARCH or expanded ARCH resident.

"Specialized care" means any care that is identified in the care plan that requires training and monitoring by a registered nurse.

"Staff" means a nurse aide, who performs a variety of duties for residents under the supervision of a registered nurse.

"Standard precautions" means guidelines developed by the Center for Disease Control (CDC) which are designed to reduce the risk of transmission of blood borne and other pathogens from both recognized and unrecognized sources of infection, including recommendations to prevent cross contamination between residents.

"Substitute care giver" means an adult who is authorized by the licensee or primary care giver to temporarily take charge of an ARCH or expanded ARCH while the licensee or primary care giver is absent and who possesses the requirements as specified in section 11-100.1-9(a) through (e) as applicable.

"Surrogate" means an individual, other than an ARCH or expanded ARCH resident's agent or guardian,
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authorized under the Uniform Health-Care Decisions Act (Modified) to make a health-care decision for the resident.

"Type I ARCH" means a facility which is licensed for a capacity not to exceed five residents.

"Type II ARCH" means a facility which is licensed for a capacity of six or more residents.

"Tuberculosis clearance" means a negative tuberculin skin test or chest x-ray, which indicates freedom from any infectious or communicable disease.

"Waiver" means an exemption to a rule.

Whenever the singular is used in this chapter it can include the plural. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-13, 321-15.6) (Imp: HRS §§26-13, 321-9, 321-10, 321-11, 321-15.6)

§11-100.1-3 Licensing. (a) No person, group of persons, or entity shall operate an ARCH or expanded ARCH without a license previously obtained under and in compliance with this chapter and chapter 321, HRS.

- (1) Any person, group of persons, or entity desiring to operate an ARCH or expanded ARCH shall apply to the department for a license on forms furnished by the department. The department shall issue a license if the applicant and home meet the requirements in this chapter;
- (2) A license, when granted, shall be in force for one year, or at such other interval of time as may be decided by the department and shall expire at that time unless renewed or extended by the department;
- (3) Each license shall be issued to a person, group of persons, or entity by name, for a specific physical facility; any change in licensee requires that the department be notified in order for the department to make

a determination as to whether or not a new license shall be issued. The license shall not be transferred under any circumstances. A separate license must be secured for each ARCH or expanded ARCH by submitting an application and obtaining department approval;

(4) The license issued by the department shall be
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posted in a conspicuous place visible to the public, on the premises of the ARCH or expanded ARCH;

- (5) No more than three day care clients shall be allowed in an ARCH or expanded ARCH at any given time;
 - (6) Each ARCH or expanded ARCH must have a primary care giver who is present at the ARCH at all times, unless the primary care giver has secured a substitute care giver to temporarily provide care to the ARCH or expanded ARCH residents;
 - (7) The primary care giver shall not have activities outside of the ARCH or expanded ARCH, or other responsibilities sufficiently demanding of his/her time and energy that they would interfere with the proper and adequate care of the residents; and
 - (8) In the event that the primary care giver will be unable to perform his/her duties under this chapter due to his/her anticipated departure from the ARCH or expanded ARCH, the licensee shall ensure that a person qualified under section 11-100.1-8 assumes the duties of the primary care giver prior to the primary care giver's departure from the ARCH or expanded ARCH. The department shall be notified of the change in primary care giver prior to the departure.
- (b) Application.
- (1) In order to obtain a license, the applicant shall apply to the director upon forms provided by the department and shall provide any information required by the department to demonstrate that the applicant and the ARCH or expanded ARCH have met all of the requirements of this chapter. The following shall accompany the application:

- (A) Documented compliance with current county building and zoning codes;
- (B) Documented compliance with current fire code requirements;
- (C) Documented clearance by sanitation branch of the department of health;
- (D) Documented clearance by wastewater branch of the department of health;

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- (E) Building plans indicating accurate measurements to scale of the entire home;
- (F) A written approval to operate an ARCH or expanded ARCH from the owner of the property if the home is rented, leased or on leased land;
- (G) Disclosure of ownership or control of the ARCH or expanded ARCH, and a projected annual budget showing the ARCH's or expanded ARCH's expected income and expenditures based on an estimated sixty percent occupancy rate.
The financial resources of the owner shall be sufficient to operate the ARCH or expanded ARCH according to standards set forth in this chapter. The owner shall provide upon request evidence as deemed necessary by the licensing agency to establish that fact;
- (H) Current written policies covering the ARCH's or expanded ARCH's proposed staffing, visiting hours, emergency plans, access to records, and any other written policies required by this chapter for the type of residents proposed to be admitted;
- (I) Documented evidence stating that the licensee, primary care giver, family members living in the ARCH or expanded ARCH that have access to the ARCH or expanded ARCH, and substitute care givers have no prior felony or abuse convictions in a court of law;
- (J) Such other information as the department may reasonably require for the purposes of this chapter.

(2) Maximum time period for processing of license application:

(A) The department shall grant or deny an application and inform the applicant of its decision within one hundred eighty days of receipt of a complete application. Applications which do not provide all requirements specified in section 11-100.1-3(b)(1) shall be deemed

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incomplete and returned to the applicant;

(B) If the department does not grant a license or deny an application within one hundred eighty days of receipt of the complete application, the application for issuance of a license will be deemed automatically approved on the one hundred eightieth day. After the expiration of the one hundred eighty days, the department shall issue the license within a month;

(C) Notwithstanding the requirements of paragraph (1), the maximum period of time of one hundred eighty days shall be extended indefinitely in the event of a national disaster, state emergency, or union strike, which would prevent the applicant, the agency, or the department from fulfilling application or review requirements in a timely manner;

(D) This subsection (b) shall apply only to applications for business or development-related licenses required by law to be obtained prior to the formation, operation, or expansion of commercial or industrial enterprise.

(c) Denial of licensure. An application for an ARCH or expanded ARCH license may be denied for reasons which include but are not limited to the following:

- (1) Failure of the applicant to comply with this chapter or chapter 321, HRS;
- (2) Failure of the applicant to provide evidence of and possess financial capability to operate the ARCH or expanded ARCH pursuant to this chapter;
- (3) Fraudulent representation or

misrepresentation of facts by the applicant;
and

- (4) Failure of the applicant to provide a satisfactory work history of patient care that would include confirmation that the applicant never abused, neglected or exploited a resident.
- (d) Closure.
- (1) The licensee shall notify the department in
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writing at least thirty days prior to an intended closure of an ARCH or expanded ARCH;

- (2) The licensee shall notify all residents, guardians, and other responsible agencies, at least thirty days prior to an intended closure of an ARCH or expanded ARCH; and
- (3) All residents shall be transferred to appropriate licensed facilities prior to closure.
- (e) Inspections.
- (1) Every licensed ARCH or expanded ARCH shall be inspected by the department on an annual basis or at such interval of time as determined by the department to determine compliance with this chapter. Inspections pursuant to all licensing activities, including follow-up visits, confirmation of correction of deficiencies and complaint investigations may be unannounced during the regular and unusual business hours;
- (2) Following an annual inspection, a list of deficiencies, if any, shall be given to the licensee or primary care giver of the ARCH or expanded ARCH. The licensee or primary care giver of the ARCH or expanded ARCH shall return a plan of correction for the deficiencies cited within ten working days. An acceptable plan for correcting deficiencies shall include the time frame for correction and the preventive measures that will be instituted to ensure compliance with this chapter; and
- (3) The department may refuse to renew a license if cited deficiencies are not corrected as per the plan of correction; or a provisional license may be issued for a specified period of time at the discretion of the department

for the purpose of giving additional time for correction of deficiencies. Not more than two successive provisional licenses shall be issued to a specific ARCH or expanded ARCH. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§91-14, 91-15, 321-4, 321-10, 321-11, 321-15.6)

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§11-100.1-4 Waiver. (a) Every request for a waiver shall be set forth in writing and submitted to the department for approval. The licensee shall submit sufficient information as set forth in subsection (d)(3), to enable the department to make a decision on the request for a waiver.

- (1) The department shall not act upon or consider any incomplete requests for waivers. A waiver request shall be deemed complete only when all required and requested information including a reason for the waiver and an alternate plan established to ensure the health, safety, welfare and civil rights of the resident, including resident care and life safety safeguards, is reviewed by the department;
- (2) Every request shall be signed by the licensee and shall constitute an acknowledgement and agreement that the licensee will comply with all terms and conditions of the waiver and this chapter;
- (3) The department may require the submission of additional information after the request has been submitted. If a request is incomplete or otherwise deficient, processing of the request shall not be completed until such time as the licensee has supplied all required information or otherwise corrected the deficiency;
- (4) All waivers shall not be transferrable;
- (5) The failure of the department to act on a completed request for a waiver within one hundred eighty days of receipt of request, shall be deemed an approval of the request; provided that the licensee acts consistently with the request process; and
- (6) Waivers may be granted in extraordinary

circumstances and on a case by case basis.

(b) The request will be reviewed by the department based on the effect or probable effect the waiver would have on the health, safety and welfare of a resident.

(c) Whenever a request is approved by the department, the department shall issue a waiver authorizing the operation of an ARCH or expanded ARCH pursuant to the conditions specified in the request for §11-100.1-4

the waiver and/or conditions specified by the department. No waiver shall be granted by the department unless the request and the supporting information clearly show that:

- (1) Granting the waiver will not endanger the health, safety, or welfare of an ARCH or expanded ARCH resident;
- (2) The waiver shall not be transferred to another resident or ARCH or expanded ARCH;
- (3) Granting the waiver will not affect the requirements of licensure provided in section 11-100.1-3; and
- (4) Granting the waiver will not affect the primary care giver requirements provided in section 11-100.1-8.

(d) Any approved waiver shall be granted within the requirements of this section, for time periods and under conditions consistent with this chapter, and with the following limitations:

- (1) The department may issue a waiver for a period not exceeding one year;
- (2) The department may revoke the waiver at any time if the waiver creates a threat to the health, safety, or welfare of an ARCH or expanded ARCH resident;
- (3) For every waiver granted under this section the department shall require the licensee to submit to the department information on a case by case basis such as:
 - (A) Resident diagnosis with ability for self preservation, physician or APRN order, training to be provided to licensee, primary care giver or substitute care givers, plan for monitoring, oversight and evaluation of resident status; or
 - (B) Conditions under which any structural changes to the ARCH or expanded ARCH

- will be completed, specific time frame for construction completion, and plan to ensure the safety of the ARCH or expanded ARCH residents during construction; and
- (C) Process to be undertaken to ensure the health, safety and welfare of ARCH or expanded ARCH residents for staffing changes or training to meet the

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- requirements of this chapter.
- (4) For every waiver granted under this subsection the department shall perform a thorough review of known and available means of protecting the health, safety, or welfare of ARCH or expanded ARCH residents to which the waiver applies.
- (e) Waiver renewal. No waiver renewal shall be granted except on request therefor. Any such request shall be submitted to the department at least one hundred eighty days prior to the expiration of the waiver. The department shall act on a request for renewal within one hundred eighty days of the receipt of such request. Any waiver granted pursuant to this section may be renewed on terms and conditions which would be appropriate on initial granting of a waiver, for periods not exceeding one year; provided that:
- (1) The request for renewal has met all of the conditions specified in the immediately preceding waiver; and
- (2) The renewal, and the waiver issued in pursuance thereof, shall provide for protection of the health, safety, or welfare of the ARCH or expanded ARCH resident in a manner not less than that attained pursuant to the terms of the immediately preceding waiver at its expiration.
- (f) The department shall, upon request, provide the opportunity for hearing in accordance with chapter 91, HRS.
- (g) No waiver shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law. [Eff.]
- [Auth: §§321-9, 321-10, 321-11, 321-15.6, 321-15.62]
(Imp. HRS 321-15.6, 321.15.62)

§11-100.1-5 Existing category 3 facilities. All existing category 3 ARCHs shall not admit any new residents. Any resident in the category 3 ARCH who develops the need for nurse aide care shall be transferred to an appropriate facility.
[Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §321-15.6)

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§11-100.1-6 Licensing fees. Appropriate fees, if any, as determined by the director, shall be charged by the department for obtaining an initial license or obtaining a license renewal. Prior notice of the amount of the fee shall be provided to the licensee.
[Eff] (Auth: HRS §§321-9, 321-10) (Imp: HRS §§321-10, 321-11)

§11-100.1-7 General operational policies. (a) General operational policies of an ARCH or expanded ARCH shall be submitted by the potential licensee in writing to the department prior to licensure and shall include, but shall not be limited to:

- (1) Admission policies as specified in section 11-100.1-10;
- (2) Types of services to be provided to residents which at a minimum shall include activities of daily living;
- (3) A clear definition of the responsibility of the ARCH or expanded ARCH to the ARCH or expanded ARCH resident and the ARCH or expanded ARCH resident's family, legal guardian, surrogate or responsible agency;
- (4) Visiting hours;
- (5) Emergency measures;
- (6) Responsibilities of the primary and substitute care givers, and ARCH or expanded ARCH residents;
- (7) Appropriate action to be taken in the event of allegations of mistreatment, neglect, misappropriation of funds or property, procedure for notification of appropriate agencies pursuant to state law;
- (8) Infection control procedures;

- (9) Written evaluation of any incidents occurring which result in resident injury or illness, review of circumstances leading to the event, and a written plan to prevent a similar situation from recurring; and
 - (10) Transfer and discharge policies as specified in section 11-100.1-22.
- (b) The general operational policies approved by the department shall be explained to the ARCH or expanded ARCH resident and the ARCH or expanded ARCH resident's family, legal guardian, surrogate or

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responsible agency prior to the ARCH or expanded ARCH resident's admission. A copy of these general operational policies shall be provided to all parties.

(c) A written agreement shall be completed at the time of admission between the licensee or primary care giver of the ARCH or expanded ARCH and the ARCH or expanded ARCH resident and the ARCH or expanded ARCH resident's family, legal guardian, surrogate or responsible agency that sets forth that resident's rights, the licensee or primary care giver of the ARCH or expanded ARCH responsibilities to that resident, the services which will be provided by the licensee or primary care giver of the ARCH or expanded ARCH according to that resident's schedule of activities or care plan, and that resident's responsibilities to the licensee or primary care giver of the ARCH or expanded ARCH. [Eff _____] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 346-224) (Imp: HRS §§321-10, 321-11, 321-15.6, 346-224)

Subchapter 2

Type I ARCH

§11-100.1-8 Primary care giver qualifications.

(a) The licensee of a Type I ARCH acting as a primary care giver or the individual that the licensee has designated as the primary care giver shall:

- (1) Be a resident of the State of Hawaii;
- (2) Be at least twenty-one years of age;
- (3) Be a nurse aide;
- (4) Reside in the Type I ARCH;
- (5) Have completed ARCH teaching modules that are approved annually by the department;

- (6) Have at least one year experience working full time or its equivalent providing direct nurse aide care as an employee of an intermediate care facility, skilled nursing facility, home health agency, or hospital;
- (7) Have knowledge of and be able to practice the principles of resident care incorporating the concepts of the social model through family and community centered activities and approaches;
- (8) Demonstrate to the department sufficient

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skill in the use of the English language to fully accomplish the objectives of the program and to comply with the requirements of this chapter;

- (9) Have achieved acceptable levels of skill and training in first aid, nutrition, cardiopulmonary resuscitation, and appropriate nursing and behavior management as required for care of all residents admitted to the Type I ARCH;
- (10) Attend and successfully complete a minimum of six hours of training sessions per year which shall include but not be limited to personal care, infection control, pharmacology, medical and behavioral management of residents, diseases and chronic illnesses, community services and resources. All inservice training and other educational experiences shall be documented and kept current;
- (11) Have knowledge of the availability of community services which may be utilized by the residents, primary care giver, or licensee;
- (12) If it is deemed necessary by the department, be examined by a physician and/or mental health professional as a condition for continued licensure. The examination shall be specifically oriented to determine if the primary care giver is physically and/or mentally capable of caring for the residents;

(b) The potential licensee of more than one Type I ARCH, in addition to the requirements in subsection (a), shall:

- (1) Establish to the department's satisfaction that the licensee possesses the skills and abilities to successfully operate multiple facilities;
 - (2) Maintain an updated, written staffing plan that assures safety and adequate service administration on a twenty four hour basis in each facility under all circumstances;
 - (3) Employ or otherwise engage by contract a qualified primary care giver in those homes in which the licensee does not reside; and
 - (4) Have a current history of operating a
- §11-100.1-8

licensed Type I ARCH in compliance with the minimum licensing regulations in the State for one year or more. [Eff]
(Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 346-224) (Imp: HRS §§321-10, 321-11, 321-15.6, 346-224)

§11-100.1-9 Personnel, Staffing and family requirements. (a) All individuals who either reside or provide care or services to residents in the Type I ARCH, shall have documented evidence that they have been examined by a physician prior to their first contact with the residents of the Type I ARCH, and thereafter shall be examined by a physician annually. The examination shall be specifically oriented to rule out infectious disease.

(b) All individuals who either reside or provide care or services to residents in the Type I ARCH shall have documented evidence of an initial and annual tuberculosis clearance.

(c) Any individual providing services to the residents who develops evidence of an infectious disease shall be immediately relieved of any duties relating to food handling or direct resident contact, or both, and shall continue to be relieved of duties until such time as a physician or APRN certifies it is safe for the individual to resume the duties. Undiagnosed skin lesions, respiratory tract symptoms or diarrhea shall be considered presumptive evidence of an infectious disease.

(d) The primary caregiver or licensee acting as the primary caregiver must be present in the Type I ARCH at all times unless the primary caregiver or

licensee acting as the primary caregiver has secured a substitute caregiver to provide temporary coverage for the primary caregiver or licensee acting as the primary caregiver.

(e) The substitute care giver who provides coverage for a period less than four hours shall:

- (1) Be at least eighteen years of age;
- (2) Have the ability to communicate, read and write in the English language;
- (3) Be currently certified in first aid; and
- (4) Be trained by the primary care giver to make prescribed medications available to residents

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and properly record such action.

(f) The substitute care giver who provides coverage for a period greater than four hours in addition to the requirements specified in subsection

(e) shall:

- (1) Be currently certified in cardiopulmonary resuscitation;
- (2) Be able to provide personal care to the residents, including bathing, dressing, transferring, feeding, and transporting residents, and be able to provide care as stipulated in the schedule of activities or care plan;
- (3) Have sufficient knowledge and experience in nursing techniques to care for the residents, including taking vital signs, observing for medication efficacy and any untoward reactions;
- (4) Be able to provide recreational programs as developed; and
- (5) Follow planned menus, prepare and serve meals, including special menus and be able to make appropriate substitutions, as required.

(g) The substitute care giver who provides coverage for a period greater than one month, shall meet the requirements as set forth in section 11-100.1-8(a).

(h) When the primary care giver is planning an absence and the licensee is unable to find a substitute care giver, residents may be temporarily transferred to another facility licensed by the department, including but not limited to an ARCH or expanded ARCH.

(i) The primary care giver shall give advance notice to residents and the resident's families, legal

guardians, or surrogates or responsible agencies if the primary care giver plans to be absent for more than three days. Such advance notice shall be not less than one week except during emergencies. The primary care giver shall have a written plan, approved by the department, for providing resident care during any absence of the primary care giver from the Type I ARCH. This written plan shall also identify the duties and responsibilities of the substitute care giver. This rule does not apply to the primary care giver's short absences for shopping, errands, or other appointments unless the resident's condition requires full-time

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supervision and is addressed in the resident's schedule of activities or care plan. [Eff]
(Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-10 Admission policies. (a) Type I ARCHs shall admit residents requiring care as stated in section 11-100.1-2. The level of care needed by the resident shall be determined and documented by that resident's physician or APRN prior to admission. Information as to each resident's level of care shall be obtained prior to a resident's admission to a Type I ARCH and shall be made available for review by the department, the resident, the resident's legal guardian, the resident's responsible placement agency, and others authorized by the resident to review it.

(b) All licensed Type I ARCHs shall admit residents without regard to age, disability, race, color, national origin (including language), sexual orientation, religion or gender.

(c) The licensee has the right to refuse a person for admission if the licensee has made a determination that the Type I ARCH lacks the capability for providing appropriate care.

(d) The Type I ARCH shall only admit residents at appropriate levels of care. The capacity of the Type I ARCH shall also be limited by this chapter, chapter 321, HRS, and as determined by the department.

(e) Persons requiring an increased level of care may be permitted in a Type I or Type II ARCH if the primary care giver is deemed capable by the department of providing the necessary interim care while awaiting

transfer to an appropriate facility.

(f) The resident and the resident's family, legal guardian, surrogate or representative shall be informed at the time of admission of all facility policies and procedures.

(g) An inventory of all personal items brought into the Type I ARCH by the resident shall be maintained.

(h) Residents requiring emergency admission to an ARCH or expanded ARCH, due to removal from their current placement by the department or other state agency and who lack immediate access to a physician or emergency room, and who are unable to provide a report

§11-100.1-12

of tuberculosis clearance within one year of admission, may be admitted to the ARCH or expanded ARCH if the resident obtains a chest x-ray indicating freedom from communicable tuberculosis within twenty-four hours of admission. The resident shall obtain a tuberculin skin test within three days of admission, as per departmental procedure. The resident shall also submit to a physical examination within one week of admission unless he or she has done so within three months prior to admission. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6, 42 USC §2000a)

§11-100-11 Activities of daily living. The licensee shall provide personal care, shelter, protection, supervision, assistance, guidance or training, planned activities, food service, laundering of personal clothing, recognition of and provision for changes in health status, and arrangement for transportation to medical and dental offices.

§11-100.1-12 Emergency care of residents and disaster preparedness. (a) The licensee shall maintain written procedures to follow in an emergency which shall include provisions for the following:

- (1) Arranging for immediate transfer or evaluation by a physician for any resident who becomes acutely ill, injured, or dies;
- (2) Arranging for transfer or placement of a resident at an emergency shelter or crisis

- response unit, as appropriate; and
- (3) Response to disasters which would include evacuation, emergency shelters, and food supply, and as directed by the Civil Defense.
- (b) The licensee shall maintain a first aid kit for emergency use for each Type I ARCH.
- (c) The licensee shall conduct regular quarterly rehearsal of emergency evacuation plans for staff and residents to follow in case of fire, explosion, or other civil emergency occurring in or within the environs of the facility.
- (d) Records of disaster evacuation and safety drills shall be available for inspection by the department. [Eff] (Auth: HRS §§321-9,

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321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-13 Nutrition. (a) The Type I ARCH shall provide each resident with an appetizing, nourishing, well-balanced diet that meets the daily nutritional needs and diet order prescribed by state and national dietary guidelines. To promote a social environment, residents, primary care givers and the primary care giver's family members residing in the Type I ARCH shall be encouraged to sit together at meal times. The same quality of foods provided to the primary care givers and their family members shall be made available to the residents unless contraindicated by the resident's physician or APRN, resident's preference or resident's family.

(b) Menus shall be written at least one week in advance, revised periodically, and followed. If cycle menus are used, there shall be a minimum of four weekly menus.

(c) Menus shall accommodate residents' food preferences, cultural and ethnic backgrounds and habits as much as possible, provided nutritional quality is maintained.

(d) Current menus shall be posted in the kitchen and in a conspicuous place in the dining area for the residents and department to review.

(e) Substitutes offered to residents who refuse food served shall be of similar nutritive value and documented.

(f) A minimum of three meals shall be provided at regular intervals in each twenty four hour period. There shall be no more than fourteen hours between a substantial evening meal and breakfast.

(g) There shall be on the premises a minimum of three days' food supply, adequate to serve the number of individuals who reside at the ARCH or expanded ARCH.

(h) The kitchen and food supply shall be accessible to residents who may desire snacks between meals, as appropriate.

(i) Each resident shall have a documented diet order on admission and readmission to the Type I ARCH and shall have the documented diet annually signed by the resident's physician or APRN. Verbal orders for diets shall be recorded on the physician order sheet

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and written confirmation by the attending physician or APRN shall be obtained during the next office visit.

(j) Each resident shall be provided with sufficient fluids to ensure adequate hydration.

(k) Physician or APRN orders for nutritional supplements including vitamins, minerals, formula meals and thickening agents shall be updated annually or sooner as specified.

(l) Special diets shall be provided for residents only as ordered by their physician or APRN. Only those Type I ARCHs licensed to provide special diets may admit residents requiring such diets.

(m) A business entity operating more than one Type I ARCH, shall utilize a registered dietitian to assist in the planning of menus and provide special diet consultation, as needed. The consultant shall provide special diet training to food preparation staff to ensure competency. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

11-100.1-14 Food sanitation. (a) All food shall be procured, stored, prepared and served under sanitary conditions.

(b) All foods shall be stored in covered containers.

(c) Refrigerators shall be equipped with an appropriate thermometer and temperature shall be

maintained at 45°F or lower.

(d) Potentially hazardous food shall meet proper temperature requirements during storage, preparation, display, service, and transportation.

(e) A metal stem thermometer shall be available for checking cold and hot food temperatures.

(f) Toxic chemicals and cleaning agents, such as insecticides, fertilizers, bleaches and all other poisons, shall be properly labeled and securely stored apart from any food supplies.

(g) Rooms used for the stored food and supplies shall be well ventilated.

(h) All persons who prepare food shall wash their hands with soap and water prior to food preparation and cooking.

(i) A kitchen sink with hot and cold running water and soap shall be available for washing dishes,

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equipment, and utensils.

(j) Potable water from an approved source shall be provided to all fixtures. [Eff]

(Auth: HRS §§321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-15 Medications. (a) All medicines shall be properly and clearly labeled. The storage shall be in a staff controlled work cabinet-counter apart from either resident's bathrooms or bedrooms.

(b) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Medications that require storage in a refrigerator shall be properly labeled and kept in a separate locked container.

(c) Separate compartments shall be provided for each resident's medication and they shall be segregated according to external or internal use.

(d) Appropriate liquid medicine measuring devices shall be available and in use when liquid medicine is made available.

(e) All medications and supplements, such as vitamins, minerals, and formulas, shall be made available as ordered by a physician or APRN.

(f) Medications made available to residents shall

be recorded on a flowsheet. The flowsheet shall contain the resident's name, name of the medication, frequency, time, date and by whom the medication was made available to the resident.

(g) All medication orders shall be reevaluated and signed by the physician or APRN every four months or as ordered by the physician or APRN, not to exceed one year.

(h) All telephone and verbal orders for medication shall be recorded immediately on the physician's order sheet and written confirmation shall be obtained not later than four months from the date of the verbal order for the medication.

(i) Only trained staff shall be allowed to make prescribed medications available to residents.

(j) Medication shall be offered only to the resident for whom it is ordered.

(k) Medication errors and drug reactions shall be reported immediately to the physician or APRN

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responsible for the medical care of the client and shall document observations and action taken in the resident's record.

(l) There shall be an acceptable procedure to separately secure medication or dispose of discontinued medications.

(m) All medications and supplements, such as vitamins, minerals, and formulas, when taken by the resident, shall be recorded on the resident's medication record, with date, time, name of drug, and dosage initialed by the care giver.

(n) Self administration of medication shall be permitted when it is determined to be a safe practice by the resident, family, legal guardian, surrogate or case manager and primary care giver and authorized by the physician or APRN. Written procedures shall be available for storage, monitoring and documentation.
[Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-16 Personal care services. (a) Each resident shall be given proper daily personal attention and care including but not limited to skin, nails, hair, teeth, and oral hygiene in addition to any therapeutic regimen ordered by the resident's physician

or APRN.

(b) Residents shall be taught and encouraged to perform health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving and caring for toenails and fingernails as independently as possible and be assisted as necessary.

(c) Primary care givers shall be responsible for proper care of and encourage the use of dentures, eye glasses, hearing aids, braces and prostheses and ambulatory equipment. The resident, family, legal guardian or responsible agency, shall be responsible for any costs involved with purchase and maintenance of the above.

(d) When ordered by a physician, APRN, or psychologist, primary care givers shall provide an appropriate training program for every resident who has problems with elimination. Progress shall be documented for each resident receiving such training.

(e) Residents who are incontinent shall be bathed §11-100.1-16

or cleaned promptly upon voiding and soiling. All soiled items shall be segregated and appropriately stored until they can be properly cleaned.

(f) Residents shall be allowed to select and be dressed appropriately in clean and comfortable clothing at all times.

(g) Residents, and the residents' family members, legal guardians, surrogates and case managers shall be given the opportunity to participate in the planning of resident care and activities.

(h) A schedule of activities shall be developed and implemented by the primary care giver for each resident which includes personal services to be provided, activities and any special care needs identified. The plan of care shall be reviewed and updated as needed.

(i) The primary care giver shall provide the opportunity for each resident to have pneumococcal and influenza vaccines and all necessary immunizations following the recommendations of the Advisory Committee on Immunization Practices (ACIP) or resident's physician or APRN.

(j) Resident(s) manifesting behaviors that may cause injury to self or others shall be assessed by a physician or APRN to determine least restrictive alternatives to physical restraint use, which may be

§11-100.1-17 Records and reports. (a) The licensee or primary care giver shall maintain

individual records for each resident. On admission, readmission, or transfer of a resident there shall be made available by the licensee or primary care giver:

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tuberculosis shall follow current departmental policies;

- (5) Copy of advanced directive, as available;
 - (6) Physician or APRN signed orders for diet, medications, and treatments;
 - (7) Height and weight measurements taken; and
 - (8) A current inventory of money and valuables.
- (b) During residence, records shall include:
- (1) Annual physical examination and other periodic examinations, pertinent immunizations, evaluations, progress notes, relevant laboratory reports, and a report of annual re-evaluation for tuberculosis;
 - (2) A copy of advanced directives, as available;
 - (3) Progress notes that shall be written on a monthly basis, or more often as appropriate, shall include observations of the resident's response to medication, treatments, diet, care plan, any changes in condition, indications of illness or injury, behavior

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patterns including the date, time, and any and all action taken. Documentation shall be completed immediately when any incident occurs;

- (4) Entries describing treatments and services rendered;
 - (5) Entries detailing all medications administered or made available;
 - (6) All recordings of temperature, pulse, respiration as ordered by a physician, APRN or as may appear to be needed. Physician or APRN shall be advised of any changes in physical or mental status promptly;
 - (7) Recording of resident's weight at least once a month, and more often when requested by a physician, APRN or responsible agency;
 - (8) Notation of visits and consultations made to resident by other professional personnel as requested by the resident or the resident's physician or APRN; and
 - (9) Correspondence pertaining to the resident's physical and mental status.
- (c) Unusual incidents shall be noted in the resident's progress notes. An incident report of any

bodily injury or other unusual circumstances affecting a resident which occurs within the home, on the premises, or elsewhere shall be made and retained by the licensee or primary care giver under separate cover, and shall be made available to the department and other authorized personnel. The resident's physician or APRN shall be called immediately if medical care may be necessary.

(d) When a resident is transferred, a written transfer summary shall be prepared, and a copy given promptly to the receiving facility, which shall include:

- (1) The reason for the transfer;
- (2) Evidence of prior notice or the written consent of the resident's family, legal guardian, surrogate or representative;
- (3) Current physical and mental status of resident; and
- (4) Current diet, medication, and activity orders signed by a physician or APRN.

(e) In the event of an emergency, an oral summary of the resident's condition shall be provided to the

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receiving facility, followed by a written transfer summary.

(f) General rules regarding records:

- (1) All entries in the resident's record shall be written in black ink, or typewritten, shall be legible, dated, and signed by the individual making the entry;
- (2) Symbols and abbreviations may be used in recording entries only if a legend is provided to explain them;
- (3) An area shall be provided for safe and secure storage of resident's records which must be retained in the ARCH for periods prescribed by state law; and
- (4) All records shall be complete, accurate, current, and readily available for review by the department or responsible placement agency.

(g) All information contained in the resident's record shall be confidential. Written consent of the resident, or resident's guardian or surrogate, shall be required for the release of information to persons not otherwise authorized to receive it. Records shall be

secured against loss, destruction, defacement, tampering, or use by unauthorized persons. There shall be written policies governing access to, duplication of, and release of any information from the resident's record. Records shall be readily accessible and available to authorized department personnel for the purpose of determining compliance with the provisions of this chapter.

- (h) Miscellaneous records:
 - (1) A permanent general register shall be maintained to record all admissions and discharges of residents;
 - (2) When requested, statistical information shall be provided to the department;
 - (3) When day care clients are permitted in a Type I ARCH, records shall be maintained and include:
 - (A) Current physical examination and tuberculosis clearance;
 - (B) Medication and diet or supplement orders;
 - (C) Emergency information; and
 - (D) Progress notes, as appropriate.

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[Eff _____] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6, 622-5(7), 622-5(8))

§11-100.1-18 Recreational, rehabilitative programs, and social services. (a) Residents shall be up and out of bed and appropriately dressed daily, unless physician or APRN orders indicate otherwise.

(b) The primary care giver shall provide social and recreational activities for residents on a regular basis and shall encourage participation in activities according to the resident's interests, needs, and capabilities.

(c) Residents shall be encouraged to participate in work, educational, recreational, social, and health activities provided by community agencies.

(d) The primary care giver shall recognize the need for and provide a warm, emotionally accepting atmosphere to residents. Residents shall be included, as much as possible, in all aspects of family and

upon request, to the resident, or if the resident is incompetent, to the duly appointed legal guardian, surrogate or responsible agency. This transaction shall be documented in writing. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-20 Resident health care standards. (a)

The primary and substitute care giver shall provide health care within the realm of the primary or substitute care giver's capabilities for the resident as prescribed by a physician or APRN.

(b) The primary and substitute care giver shall utilize standard precautions in the provision of personal care to the residents.

(c) The primary and substitute care giver shall be able to recognize, record, and report to the resident's physician or APRN significant changes in the resident's health status including, but not limited to, convulsions, fever, sudden weakness, persistent or recurring headaches, voice changes, coughing, shortness of breath, changes in behavior, swelling limbs, or abnormal bleeding.

(d) When the resident has experienced a

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significant change in mental or physical well-being, a prompt report shall be made and provided to the resident's physician or APRN, by the primary or substitute caregiver. Any change in physician or APRN orders shall be promptly carried out.

(e) Arrangements shall be made by the primary care giver for annual dental examinations. Arrangements shall be made by the primary or substitute care giver for emergency dental examinations.

(f) Residents shall be accompanied by an adult to emergency rooms and other medical care facilities with all available resident records.

(g) Payment for all medical and dental treatment shall be the responsibility of the resident or responsible agency. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 457) (Imp: HRS §§321-10, 321-11, 321-15.6, 457)

§11-100.1-21 Residents' and primary care givers'

rights and responsibilities. (a) Residents' rights and responsibilities:

- (1) Written policies regarding the rights and responsibilities of residents during the stay in the Type I ARCH shall be established and a copy shall be provided to the resident and the resident's family, legal guardian, surrogate, sponsoring agency or representative payee, and to the public upon request. The Type I ARCH policies and procedures shall provide that each individual admitted shall:
 - (A) Be fully informed orally or in writing, prior to or at the time of admission, of these rights and of all rules governing resident conduct. There shall be documentation signed by the resident that this procedure has been carried out;
 - (B) Be fully informed that interpreter services including but not limited to translation, sign language or visual services will be provided if the resident requires such services. Should the resident require the assistance of an interpreter, the licensee shall

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ensure that interpreter services including but not limited to translation, sign language or visual services are provided;

- (C) Be fully informed orally and in writing, prior to or at the time of admission, and during stay, of services available in or through the Type I ARCH and of related charges, including any charges for services not covered by the Type I ARCH's basic per diem rate; and
 - (D) Be given advance written notice, of not less than thirty days, of involuntary transfer or discharges, except in an emergency.
- (2) Each resident shall:
 - (A) Be encouraged and assisted to exercise the resident's rights to vote, voice grievances, recommend changes in

policies and services to care givers or outside representatives of the resident's choice, be free from interference, coercion, discrimination, or reprisal;

- (B) Be informed of the conditions under which the Type I ARCH may manage the resident's personal financial affairs as detailed in section 11-100.1-18;
- (C) Be free from chemical and physical restraints and not be humiliated, harassed, or threatened.
- (D) Physical restraints may only be used in an emergency when necessary to protect the resident from injury to self or to others. In such a situation the resident's physician or APRN shall be notified immediately to obtain an assessment for least restrictive alternatives to restraint use. If restraint use is determined to be necessary, written orders shall be obtained from the resident's physician or APRN indicating the form of restraint to be used, the length of time restraint shall be applied, the frequency of use and the alternative care that can be

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provided to the resident. If a less restrictive alternative to restraint exists, it must be used in lieu of the restraint. The resident's family, legal guardian, surrogate or representative, and case manager shall be notified if no alternative to restraint exists and a written consent shall be obtained for restraint use. The restraint use shall be in compliance with the Type I ARCH's written policy;

- (D) Be treated with understanding, respect, and full consideration of the resident's dignity and individuality, including privacy in treatment and in care of the resident's personal needs;
- (E) Have the right to be free from ill treatment, physical punishment,

- exploitation, neglect, physical or psychological abuse and shall be protected from further potential abuse while an investigation is in progress;
- (F) Have the right to an environment free of weapons, drugs or other conditions that may cause the resident to feel unsafe in a Type I ARCH;
 - (G) Perform services for the Type I ARCH or the primary and substitute care givers only when agreed to by the resident, resident's family, resident's legal guardian, surrogate or representative, and shall be documented;
 - (H) Have the right to associate and communicate privately with persons of the resident's choice, and to send and receive the resident's personal mail unopened;
 - (I) Have the right to refuse visitors;
 - (J) Have the right to meet with and participate in social, religious, health and community group activities at the resident's discretion, unless medically contra-indicated;
 - (K) Have the right to refuse to participate in social, religious, or health and community group activities;

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- (L) Make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable;
- (M) Manage his or her financial affairs, or be given at least a quarterly accounting of financial transactions made on his or her behalf by the Type I ARCH should the Type I ARCH accept his or her written delegation of this responsibility to the Type I ARCH for any period of time in conformance with state law;
- (N) Participate in the planning of his or her schedule of activities, and/or care plan and medical treatment;
- (O) Retain and use personal clothing and

possessions as space permits, unless doing so:

- (i) Would infringe upon the rights of other residents; or
 - (ii) Is specifically forbidden by written orders of the resident's physician or APRN;
- (P) If married, be assured of privacy for visits by the spouse and, if both are residents in the home, be permitted to share a room if agreeable to both;
 - (Q) Have flexible daily visiting hours and provisions for privacy established;
 - (R) Have the right to reject living in a particular facility;
 - (S) Provide the primary care giver with a fourteen day notice when wishing to transfer to another facility;
 - (T) Have the right to request food preferences and not have dietary restrictions as punishment;
 - (U) Have the right to locked storage space;
 - (V) Have their personal and medical records kept confidential and subject to release only as provided in section 11-100.1-17(g); and
 - (W) Have access to a telephone providing privacy.

(b) Primary care givers' rights and

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responsibilities:

- (1) Written policies regarding primary care givers' rights and responsibilities shall be established and a copy shall be provided to the resident and the resident's family, any guardian, next of kin, surrogate, sponsoring agency or representative payee and to the public upon request;
- (2) The primary care giver has the right to:
 - (A) Be shown consideration and respect that recognizes the dignity and individuality of the primary care giver and the Type I ARCH;
 - (B) Terminate a resident's agreement for just cause after a written 30 day

- notice;
- (C) Terminate an agreement immediately, after notice to the resident, family member or surrogate, case manager and physician, if the primary care giver finds that a resident creates a serious or immediate threat to the health, safety or welfare of other residents of the Type I ARCH;
 - (D) Present grievances, file complaints, or provide information to state agencies or other persons;
 - (E) Refuse to perform services for the resident or the resident's surrogate other than those agreed upon by the resident and the care giver;
 - (F) Contract with community resources to achieve the highest level of independence, autonomy, interaction and services for residents;
 - (G) Be able to gain access to resident information, as per the referring agency's policy and procedures, for each resident referred to the Type I ARCH. All information shall be kept confidential;
 - (H) Refuse to accept a resident if the referral is inappropriate;
 - (I) Information relating to a resident's problems, including self-abuse, violent

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- behavior, alcoholism, or drug abuse; and
- (3) The primary care giver or licensee shall be responsible for maintaining an environment free of weapons or drugs.
 - (4) The primary care giver or licensee shall be responsible for ensuring the health, safety, welfare and civil rights of all residents under their care. [Eff]
(Auth: HRS §§321-9, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6, 622-57)

§11-100.1-22 Transfer and discharge of residents.

(a) Except as provided in subchapter 6 of this chapter, written notice of a resident's transfer to an appropriate facility or discharge to another living arrangement or transfer within the Type I ARCH shall be given no less than thirty days prior to transfer or discharge except in case of an emergency, to the resident, the resident's family, the resident's legal guardian, surrogate or representative, and the case manager when:

- (1) Ordered by the resident's physician or APRN;
- (2) Physical or mental changes of the resident necessitates services which cannot be provided in the existing Type I ARCH;
- (3) Physical or mental changes of the primary care giver resulting in the inability of the primary care giver to provide the service;
- (4) Resident wishes to transfer; or
- (5) Primary care giver wishes to transfer the resident for just cause.

(b) The licensee or primary care giver of the Type I ARCH shall provide assistance to the resident, resident's family, legal guardian, representative, surrogate or case manager with the transfer.

[Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-23 Physical environment. (a) For all ARCHs, suitability of site, quietness, sanitary features of the immediate environment, accessibility, and proximity to the community to be served shall be considered in licensing a facility.

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(b) The Type I ARCH shall be free of excessive noise, dust, or odors and shall have good drainage;

(c) The Type I ARCH shall be provided with adequate means of sewage, garbage, and other refuse disposal, approved potable water supply, and electricity;

(d) The Type I ARCH shall be accessible by emergency medical services and be near a means of public transportation;

(e) Resident living areas shall be designed and equipped for the safety, comfort, and privacy of the resident; and

(f) Any person regularly utilizing the portions of the home designated for residents including but not limited to day care residents, relatives, and visitors shall be considered as residents for purposes of calculating the space requirements of section 11-100.1-23(1)(2) and section 11-100.1-23(m)(3).

(g) Fire prevention protection.

- (1) All Type I ARCHs licensed under this chapter shall initially comply, and shall be inspected at least annually by appropriate fire authorities for compliance, with state and county codes, ordinances, and laws;
- (2) Fees for fire inspections shall be the responsibility of the licensee;
- (3) Type I ARCHs shall be in compliance with, but not limited to, the following provisions:
 - (A) Fire escapes, stairways and other exit equipment shall be maintained operational and in good repair and free of obstruction;
 - (B) There shall be a clear and unobstructed access to a safe area of refuge;
 - (C) Each Type I ARCH shall have a written plan for the safe care and evacuation of residents to areas of refuge in case of emergency. This plan shall be reviewed, and updated as necessary, whenever there is a significant change in the physical or mental condition of a resident or whenever a new resident enters the facility. All personnel shall be instructed in their respective duties in carrying out this plan. The written

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plan with directional diagrams shall be posted in a conspicuous location within the facility;

- (D) A drill shall be held to provide training for residents and personnel at various times of the day or night at least four times a year and at least three months from the previous drill, and the record shall contain the date, hour, personnel participating and description of drill,

and the time taken to safely evacuate residents from the building. A copy of the fire drill procedure and results shall be submitted to the fire inspector or department upon request;

- (E) There shall be an adequate system of communication to summon help in case of fire or other emergency. This shall include telephone service. Inside stairways shall be provided for communication between floors within the Type I ARCH. All rooms utilized by the Type I ARCH, under the same roof, shall be connected by interior doors. The communication system shall assure prompt contact with care givers;
- (F) Smoking shall be permitted only in approved areas where proper equipment and supervision is provided;
- (G) Smoke detectors shall be provided in accordance with the most current edition of the National Fire Protection Association (NFPA) Standard 101 Life Safety Code, One and Two Family Dwellings. Existing Type I ARCHs may continue to use battery operated individual smoke detector units, however, upon transfer of ownership or primary care giver, such units shall be replaced with an automatic hard wiring UL approved smoke detector system;
- (H) Fire extinguishers shall be installed in accordance with NFPA 101 Life Safety

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Code and have a minimum fire extinguisher classification rating as required by the county fire code;

- (I) Each resident of a Type I home must be certified by a physician that the resident is ambulatory and capable of following directions and taking appropriate action for self-preservation under emergency conditions, except that a maximum of two residents, not so

certified, may reside in the Type I home provided that either:

- (i) For each such non-certified resident there must be a responsible adult on the premises of the home at all times that the non-certified resident is present in the home, and there must never be a stairway which must be negotiated for emergency exit by such non-certified resident; or
 - (ii) Type I homes having residents not so certified shall have a sprinkler system installed throughout in accordance with the National Fire Protection Association (NFPA) Standard 13-D, Sprinkler Systems, One and Two Family Dwellings; or
- (h) The Type I ARCH shall maintain the entire facility and equipment in a safe and comfortable manner to minimize hazards to residents and care givers.
- (1) Housekeeping:
 - (A) A plan including but not limited to sweeping, dusting, mopping, vacuuming, waxing, sanitizing, removal of odors and cleaning of windows and screens shall be made and implemented for routine periodic cleaning of the entire Type I ARCH and premises;
 - (B) After discharge of any resident, the bed, bed furnishings, bedside furniture and equipment shall be thoroughly cleansed prior to subsequent resident admission;
 - (C) Floors in resident areas shall be

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- cleaned at least once daily;
 - (D) All walls, ceilings, windows and fixtures shall be kept clean; and toilets and lavatories shall be cleaned and deodorized daily.
- (2) Temperature control:
 - (A) Temperature and humidity shall be maintained within a practical comfort range by heating, air conditioning, or

- other means in accordance with residents' needs and desires; and
- (B) Any heating apparatus or appliances, or open flame in stoves, water heaters and fireplaces shall conform to UL standards as they existed on the date of adoption of this chapter.
- (3) All Type I ARCHs shall comply with applicable state laws and rules relating to sanitation, health, infection control and environmental safety;
 - (4) Water supply. Hot and cold water shall be readily available to residents for personal washing purposes. Temperature of hot water at plumbing fixtures used by residents shall be regulated and maintained within the range of 100°-120°F.
- (i) All construction or alterations shall comply with current county building, land use and fire codes and ordinances in the state. The Type I ARCH shall be accessible to and functional for physically handicapped residents as they are admitted.
- (1) Windows:
 - (A) A habitable room shall have an aggregate window area of not less than one-tenth of the gross floor area;
 - (B) In bedrooms occupied by residents in wheelchairs, window sills may not be higher than forty four inches, or as stipulated by the current county building codes; and
 - (C) Windows in residents' rooms shall have adequate means of insuring privacy.
 - (2) Windows shall have screens having no less than sixteen meshes per inch.
 - (3) Doors:

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- (A) Two exit doors shall be included which are remote from each other and shall be provided for each floor or separate building where residents reside. For residents with assistive devices, doorways shall be wide enough to allow passage and access;
- (B) When multiple locking devices are used

- on exits, a maximum of two locking mechanisms for egress shall be allowed;
- (C) Sliding doors and folding doors shall not be used as exit doors, but where used in service areas not utilized by residents, shall be of light material and easy to handle;
 - (D) Provision for the free passage of handicapped residents, including wheelchair residents, to rooms, toilets, corridors, and exits shall be maintained at all times; and
 - (E) Each occupied room shall have access to required exits.
- (4) Lighting:
- (A) Appropriate lighting fixtures adequate in number shall be provided for the comfort of residents and care givers; and
 - (B) Residents' rooms shall have artificial light adequate for reading at bedside. This lighting shall be at least thirty foot candles at normal reading height;
- (5) In multi-level homes there shall be an inside enclosed stairway. Ramps shall not exceed a slope of more than one inch per foot and shall be provided with non-slip material. Elevators, stairways and ramps and handrails shall comply with current county building codes;
- (6) In Type I ARCHs, bedrooms, hallways, and corridors shall be large enough to allow passage, access and be comfortable for residents with assistive devices. Type I ARCHs shall establish a performance criteria for safe evacuation and exit from the facility meeting the standards and requirements as set forth by the Uniform

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Building Code (UBC) and NFPA 101 (with utilization of the FSES rating).

- (7) At least one toilet, lavatory and bathtub or shower shall be conveniently located and provided for each floor occupied by residents for sleeping;
- (8) Toilets, bathtubs and showers shall have

- provisions for individual privacy;
- (9) Bathrooms shall have non-slip surfaces in tubs and showers;
 - (10) For Type I ARCHs with wheelchair residents, walk-in showers flush with the floor shall be provided. Showers shall have a minimum floor area of sixteen square feet arranged and located to accommodate both the resident and the care giver providing personal care. The shower entrance shall be at least thirty two inches wide. Adjacent floor areas shall be protected from the water which could constitute an unsafe area;
 - (11) Handrails and grab bars shall be at a height of thirty two to thirty four inches from the floor for residents' use in the hallways and bathrooms.
 - (12) Floors shall be nonabrasive, slip resistant, flush at doorways and be of material which do not retain odors.
- (j) Waste disposal:
- (1) Every Type I ARCH shall provide a sufficient number of watertight receptacles, acceptable to the department for rubbish, garbage, refuse, and other matter. These receptacles shall be kept closed by tight fitting covers; and
 - (2) Disposal of infectious waste shall be in compliance with Hawaii Administrative Rules chapter 104, Management and Disposal of Infectious Waste.
- (k) Storage space for resident's luggage and other bulky items and equipment shall be provided and located in a safe and convenient place.
- (1) An enclosed dining area within the Type I ARCH shall be provided for residents which shall be apart from sleeping quarters but may be in continuity to the living room area. The following shall prevail:
- (1) At least one table with twenty nine inches

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clearance between floor and lower edge shall be provided to allow for those residents using wheelchairs;

- (2) Dining space allotment shall not be less than twenty square feet per resident capacity;
- (3) Residents shall be served meals in dining

- rooms unless they are temporarily confined to their bedrooms; and
- (4) Safe supportive chairs shall be provided in accord with each resident's need;
 - (m) Family or living room:
 - (1) Provisions shall be made for at least one conveniently located enclosed area for recreational, social and activity needs of the residents within or contiguous to the facility;
 - (2) The family room shall be equipped with reading lamps, tables, chairs and other appropriate furnishings for the use and comfort of the residents but shall not include beds; and
 - (3) The living room space allotment shall not be less than thirty square feet per resident.
 - (n) Outdoor areas accessible to the residents shall be made safe for use by the resident.
 - (o) Bedrooms:
 - (1) General conditions:
 - (A) Bedrooms shall be at or above grade level;
 - (B) There shall be an adequate number of rooms provided for immediate family members as well as residents;
 - (C) Family members shall not sleep in residents' bedrooms;
 - (D) Bedrooms shall not be used for recreation, cooking, dining, storage, bathrooms, laundries, foyers, corridors, lanais, and libraries;
 - (E) Access from each bedroom to a bathroom, toilet, corridor, central utility, or other area shall be arranged to avoid passing through another bedroom;
 - (F) Bedrooms shall be conveniently located near adequate toilet and bathing facilities appropriate in number, size,

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and design to meet the needs of the residents;

- (G) All occupants of any bedroom shall be of the same sex except for designated semi-private rooms which may be occupied by a

- mixed sex couple if the primary care giver and both residents agree to the living arrangements; and
- (H) Wheelchair accessibility to sleeping rooms, bathrooms, common areas, and exits shall be provided in accordance with the Americans with Disabilities Act.
- (2) Floor space:
- (A) Minimum usable floor space allowable shall be seventy square feet per bed in a multiple resident bedroom and eighty square feet per bed in a single resident bedroom, excluding toilet, closets, lockers, alcoves, and vestibules. The number of residents shall be limited to a maximum of two;
 - (B) Beds shall be placed at least three feet apart in multiple occupant bedrooms;
 - (C) In all Type I ARCHs and those undergoing construction or renovation, closet space for residents shall be provided within the bedroom, allowing a minimum of thirty inches in width, twenty inches in depth, and five feet in height per person exclusive of bedroom space; and
 - (D) Hanging clothes rods and shelves shall be adjusted as necessary.
- (3) Bedroom furnishings:
- (A) Each resident shall be provided for their individual use, a clean bed including spring with mattress, at least thirty six inches wide, of sufficient length and proper height for the resident and to permit an individual in a wheelchair to get in and out of bed unassisted;
 - (B) Each bed shall be supplied with a comfortable mattress cover, a pillow, pliable plastic pillow protector, pillow

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case, and an upper and lower sheet. A sheet blanket may be substituted for the top sheet when requested by the resident; and

- (C) A suitable bedspread shall be used on each resident's bed.
- (p) Miscellaneous:
 - (1) Conveniently located space for personal care items and for equipment, such as crutches and wheelchairs, shall be provided;
 - (2) Walkers, wheelchairs, canes, crutches and bedside rails shall be provided by the resident;
 - (3) Equipment for bedside care shall be stored in resident's bedside stand or other adjacent enclosed space;
 - (4) There shall be adequate provision for privacy when caring for resident or when requested by the resident and an individual bath sheet blanket shall be used when bed baths are given; and
 - (5) Signaling devices approved by the department shall be provided for resident's use at the bedside, in bathrooms, toilet rooms, and other areas where residents may be left alone. In Type I ARCHs where the primary care giver and residents do not reside on the same level or when other signaling mechanisms are deemed inadequate, there shall be an electronic signaling system.
- (q) All construction, additions, alterations:
 - (1) Drawings and specifications for all new construction or additions, alterations or repairs to existing buildings shall be submitted to the department for review prior to construction;
 - (2) While final authority to approve the construction and fire safety features of such building rests with county agencies and fire marshals, if construction drawings and specifications are submitted to the department, the department shall promptly review such submittals and make every effort to advise the applicant of features which appear nonconforming; and
 - (3) Minor alterations which do not affect

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structural integrity, fire, safety, or which do not change functional operation, or increase beds or services over that for which

the ARCH is licensed may be submitted by
freehand drawings or sketches.

(r) Facilities shall be maintained in accordance
with provisions of state and local zoning, building,
fire safety and health codes. [Eff]
(Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS
§§321-10, 321-11, 321-15.6)

§§11-100.1-24 to 11-100.1-50 (Reserved).

Subchapter 3 Type II ARCH

§11-100-1-51 Applicability. In addition to the
requirements in Subchapter 1 Type I ARCH, the following
requirements shall apply to Type II ARCHs.

§11-100.1-52 Primary care giver requirements.
The licensee of a Type II ARCH facility acting as the
primary care giver or the individual that the licensee
has designated as the primary care giver, in addition
to the requirements in section 11-100.1-8(a), shall:

- (1) Have at least two years experience, in a
management capacity, in the areas of housing,
health care and personal care services or any
combination thereof;
- (2) Have knowledge of generally acceptable
accounting principles;
- (3) Have training or experience in supervisory
management;
- (4) Have knowledge of purchasing of large volumes
of food and meal preparation, as appropriate;
- (5) Have knowledge of infection control
procedures in relation to resident care,
personnel and handling of large volume of
laundry, as appropriate; and
- (6) Be accountable for providing training for all
facility personnel in the provision of
resident care in conjunction with the

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principles of the social model.
[Eff] (Auth: Chapter 91 HRS

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§§321-9, 321-10, 321-11, 321-15.6, 321-15.7)(Imp: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-18.)

§11-100.1-53 Personnel and staffing requirements.

(a) Personnel policies shall be developed and maintained indicating staff orientation and in service training, job descriptions, staff qualifications, job requirements for each class of employees, code of conduct and other pertinent personnel information.

(b) All Type II ARCHs with a licensed capacity of greater than eight residents shall have a full-time administrator that meets the requirements in section 11-100.1-8(a) and section 11-100.1-52. Type II ARCHs with a licensed capacity of eight and less residents shall have available an administrator that meets the requirements in section 11-100.1-8(a) and section 11-100.1-52.

(c) All Type II ARCHs with a licensed capacity of greater than eight residents shall have a full-time registered nurse to provide nursing management and oversight. Type II ARCHs with a licensed capacity of eight and less residents shall have a registered nurse available to provide nursing management and oversight.

(d) An adequate number of qualified staff, as determined by the department, shall be on duty twenty-four hours a day.

(e) At least one staff member of each shift shall be a nurse aide.

(f) There shall be a designated and properly trained person to make prescribed medications available and to perform treatments under the general supervision or direction of a licensed nurse or who meets the requirements as set forth in section 11-100.1-8(a).

(g) No staff shall work more than two consecutive eight hour shifts within a twenty four hour period.

(h) The administrator, primary care giver and substitute care givers shall attend and successfully complete a minimum of six hours of training sessions per year which shall include but not be limited to personal care, infection control, pharmacology, medical and behavioral management of residents, diseases and chronic illnesses, community services and resources.

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All inservice training and other educational experiences shall be documented and kept current.

(i) All in service training and other educational experiences for employees and primary and substitute care givers shall be documented and kept current.

[Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-54 General operational policies. In addition to the requirements in section 11-100.1-7, the Type II ARCH shall have general operational policies on the following topics:

- (1) Nursing services, delegation and staffing pattern/ratio;
- (2) Medication administration;
- (3) Drug storage, disposal, safety and quality control;
- (4) Medical emergencies, outlining situations or circumstances which would warrant contacting a registered nurse, physician or emergency medical personnel;
- (5) Use of restraints, outlining assessment processes, indications for use, monitoring and evaluation;
- (6) Resident rights, including system for administering resident funds and covered and non-covered items;
- (7) Food purchase and meal preparation and referral and use of consultant registered dietitian;
- (8) Abuse, neglect, and exploitation of residents, process for reporting and investigation;
- (9) Resident assessment indicating assessment process, care plan development, evaluation and prevention of negative outcomes. Procedures will also identify process for referral and follow-up when changes in resident status occur; and
- (10) Storage and disposal of hazardous and infectious waste. [Eff]
(Auth: HRS §§321-9, 321-10, 321-11, 321-15.6)
(Imp: HRS §§321-10, 321-11, 321-15.6)

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§11-100.1-55 Nutrition and food sanitation. In addition to the requirements in section 11-100.1-13 the

following shall apply to all Type II ARCHs:

- (1) A registered dietitian shall be utilized to assist in the planning of menus, and provide nutritional assessments for those residents identified to be at nutritional risk or on special diets. All consultations shall be documented;
 - (2) All consultant dietitians shall provide special diet training for food preparation staff and ensure staff competency; and
 - (3) All Type II ARCHs shall be in compliance with Hawaii Administrative Rules Title 11, Chapter 12, Food Establishment Sanitation.
- [Eff _____] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§11-100.1-56 Physical environment. In addition to the requirements in section 11-100.1-23 the following shall apply to all Type II ARCHs:

(a) A Type II ARCH that was licensed prior to 1986 and cannot fully comply with the current county building and fire codes shall continue to be licensed as long as all residents are ambulatory and the ownership remains the same unless the director determines that failing to meet these rules and regulations would jeopardize the health and safety of the residents in the Type II ARCH;

(b) Except as provided in paragraph (1), Type II ARCHs shall be in compliance with the requirements for Group I occupancies as defined in the Uniform Building Code and as detailed in applicable chapters of the NFPA 101 Life Safety Code adopted by reference by the state fire code and respective county fire codes. Compliance shall include but are not limited to the following:

- (1) All exits in Type II ARCHs shall be lighted from sunset to sunrise and under other conditions required by applicable provisions of the state and county fire codes;
- (2) Night lighting shall be provided in hallways and bathrooms; and
- (3) An approved secondary source of power (generator or battery operated) for emergency

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lighting of exits shall be operational at all times.

- (c) The number of occupants in bedrooms shall be limited to a maximum of four.
- (d) There shall be:
 - (1) One toilet for each eight occupants;
 - (2) One bathtub or shower for each fourteen occupants; and
 - (3) One lavatory for each ten occupants.
- (e) A utility area shall be provided to wash and clean garbage containers and for storing garbage, trash, and solid waste;
- (f) Storage space shall be provided for janitor's supplies and equipment;
- (g) If bedpans are used, suitable bedpan flushing attachments to existing toilets must be available and used.
- (h) A preventive maintenance program shall be developed and documented. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6) (Imp: HRS §§321-10, 321-11, 321-15.6)

§§11-100.1-57 to 11-100.1-77 (Reserved).

Subchapter 4 Expanded ARCH

§11-100.1-78 Applicability. In addition to the requirements in Subchapter 1 Type I ARCH and Subchapter 2 Type II ARCH, the following requirements will apply to expanded ARCHs.

§11-100.1-79 Purpose. The purpose of this subchapter is to establish a category of ARCHs qualified to serve nursing facility level residents. [Eff] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-80 Licensing. (a) In addition to the §11-100.1-80

requirements in section 11-100.1-3(a), every applicant for an expanded ARCH license shall be licensed as an

ARCH and shall have been operating satisfactorily for a minimum of six months prior to applying for expanded ARCH licensure.

(b) Each expanded ARCH shall be inspected prior to licensure to determine suitability of accommodating residents who are not capable of self-preservation.

(c) Prior to determining eligibility of an applicant, all existing waivers in the ARCH shall be subject to review by the department.

(d) Policies and procedures shall be developed by the licensee to meet the provisions of this chapter.

(e) At no time shall the total bed capacity of the expanded ARCH exceed the licensed capacity under the original ARCH license. [Eff] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-81 Minimum structural requirements. In addition to the requirements in section 11-100.1-23 and section 11-100.1-56, the expanded ARCH shall satisfy the following requirements:

(a) All signaling devices shall be approved by the department and installed at bedside, in bathrooms, toilet rooms, and other areas where expanded ARCH residents may be left alone. All such signaling devices shall be approved by the department. In expanded ARCHs where the primary care giver and expanded ARCH residents do not reside on the same floor or when other signaling mechanisms are deemed inadequate, electronic signaling systems shall be installed.

(b) Every interior door, when locked, shall permit opening from the outside with the use of a common tool or implement.

(c) Door locks or other devices shall not be installed to restrict the free movement or use of exits by the expanded ARCH residents.

(d) There shall be interior stairways in a multi-story structure.

(e) If swimming pools are located on expanded ARCH property, there shall be a solid pool cover with a key lock approved by the department or a fence six feet

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in height which completely encloses the pool. The pool cover shall be locked onto the pool or the gate to the

pool shall be locked at all times unless the pool is being used, in which case, proper supervision of expanded ARCH residents shall be provided to assure resident safety. [Eff] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-82 Primary care giver requirements. In addition to requirements in section 11-100.1-8(a) the following shall apply:

(a) The primary care giver shall be approved by the department to provide special diets.

(b) The licensee shall provide staff on duty twenty four hours of each day sufficient and trained to meet the needs of expanded ARCH residents and to carry out the responsibilities based on the expanded ARCH resident's care plan.

(c) The licensee shall submit a plan, which must be approved by the department detailing the process by which the expanded ARCH will arrange for the services of a registered nurse and case manager, the role and responsibilities of the registered nurse, case manager, and care givers and how training of the primary and substitute care givers will be ensured.

(d) Licensees shall submit the name of the trained substitute care givers at the time of application and as changes occur.

(e) The licensee or primary care giver shall not be a substitute care giver for another ARCH or expanded ARCH. [Eff] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-83 Personnel and staffing requirements. In addition to the requirements in subchapter 2 and 3:

(1) A registered nurse other than the licensee or primary care giver shall train and monitor primary care givers and substitutes in providing daily personal and specialized care to residents as needed to implement their
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care plan;

(2) The licensee of a Type I expanded ARCH shall

[Eff (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

321-15.6, 321-15.61, 321-15.62)

§11-100.1-85 Transfer and discharge of expanded ARCH residents. (a) All transfers and discharges of expanded ARCH residents shall be coordinated with the resident, resident's family or surrogate, resident's case manager, primary care giver or licensee and resident's physician or APRN. The licensee or primary care giver shall assist with the transfer or discharge.

(b) If the licensee requests transfer of the expanded ARCH resident, a written request stating the reason for the transfer shall first be made to the resident, resident's family or surrogate, resident's case manager and physician or APRN no less than thirty days prior to the desired date of transfer.

(c) Thirty days written notice shall not be required for emergency transfers, discharges, or if mutually agreed upon by resident, licensee, and case manager.

(d) If the resident, resident's family or surrogate wishes to have the resident transferred, notice of no less than fourteen days shall be provided to the primary care giver. [Eff]

(Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-86 Fire safety. (a) A Type I expanded ARCH shall be in compliance with existing fire safety standards for a Type I ARCH, as provided in section 11-100.1-23(b), and the following:

- (1) Locking devices for room doors shall be readily opened by the occupant from inside the room without the use of a key or special knowledge. Push button locks shall automatically pop open upon turning of the doorknob;
- (2) Resident's sleeping room doors shall be self closing;
- (3) Fire drills shall be conducted and documented at least monthly under varied conditions and times of day;
- (4) Hard wired smoke detectors shall be approved

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by a nationally recognized testing laboratory and all shall be tested at least monthly to

- assure working order;
- (5) In the residents' area, a hard wired smoke detector shall be located in the hallway outside of the resident sleeping rooms and also in the living/activity room. Hard wired or battery operated smoke detectors, or both, shall also be located in all resident sleeping rooms;
 - (6) In a one-story structure, a hard wired smoke detector shall separate the expanded ARCH resident area from the care giver's living area; and
 - (7) In a multi-story home, a hard wired smoke detector shall be in the care giver's living area or hallway outside the sleeping rooms and at the top of the interior stairway landing.

(b) Type II expanded ARCHs shall be in compliance with the requirements for Group I occupancies as defined in the Uniform Building Code and as detailed in applicable chapters of the NFPA 101 Life Safety Code adopted by reference by the state fire code and respective county fire codes. [Eff]
(Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-87 Personal care services. (a) The primary care giver shall provide daily personal care and specialized care to an expanded ARCH resident as indicated in the care plan. The care plan shall be developed as stipulated in section 11-100.1-2 and updated as changes occur in the expanded ARCH resident's care needs and required services or interventions.

(b) The expanded ARCH shall provide an ongoing program of recreational and social activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, psycho-social well being of each resident, and shall be documented in the care plan.

(c) The primary care giver shall, in coordination
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with the case manager, make arrangements for each expanded ARCH resident to have:

- (1) Annual physical and dental examinations;
- (2) Pneumococcal and influenza vaccines and any necessary immunizations following the recommendations of the Advisory Committee of Immunization Practices (ACIP); and
- (3) Visits to the physician every four months or more frequently to ensure adequate medical supervision.

(d) The primary care giver shall have twenty four hour access to a physician or APRN and case manager. Except for an emergency, whenever the primary care giver observes a significant change in the health status of the expanded ARCH resident, the primary care giver shall promptly notify the resident's physician or APRN and case manager. The primary care giver shall record this action in the expanded ARCH resident's progress notes.

(e) The primary care giver with the assistance of the case manager shall provide training to all substitute care givers and ensure that all services and interventions indicated in the expanded ARCH resident's care plan are provided to expanded ARCH residents by the substitute care giver. [Eff]

(Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321.15.62)

§11-100.1-88 Case management qualifications and services. (a) Case management services shall be provided for each expanded ARCH resident to plan, locate, coordinate and monitor comprehensive services to meet the individual resident's needs based on a comprehensive assessment. Case management services shall be provided by:

- (1) A registered nurse who:
 - (A) Possesses a bachelor's degree in nursing and current license to practice in the State of Hawaii; and
 - (B) Has at least two years experience with client care coordination responsibilities and possesses knowledge

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and skills of the long term care needs of the geriatric population. The department may allow substitution of two additional years of client care

coordination experience for a bachelor's degree; and

- (2) A social worker who:
 - (A) Possesses a master's degree in social work and current license to practice in the State of Hawaii; and
 - (B) Has at least two years experience with client care coordination responsibilities and possesses knowledge and skills of the long term care needs of the geriatric population. The department may allow substitution of two additional years of client care coordination experience for a master's degree.

(b) Case management services shall be obtained for each expanded ARCH resident by the resident, resident's family or surrogate in collaboration with the primary care giver and physician or APRN. The case manager shall:

- (1) Conduct a comprehensive assessment of the expanded ARCH resident prior to placement in an expanded ARCH, which shall include, but not be limited to, physical, mental, psychological, social and spiritual aspects;
- (2) Develop an interim care plan for the expanded ARCH resident within forty eight hours of admission to the expanded ARCH and a care plan within seven days of admission. The care plan shall be based on a comprehensive assessment of the expanded ARCH resident's needs and shall address the medical, nursing, social, mental, behavioral, recreational, dental, emergency care, nutritional, spiritual, rehabilitative needs of the resident and any other specific need of the resident. This plan shall identify all services to be provided to the expanded ARCH resident and shall include, but not be limited to, treatment and medication orders of the expanded ARCH resident's physician or

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APRN, measurable goals and outcomes for the expanded ARCH resident; specific procedures for intervention or services required to meet

the expanded ARCH resident's needs; and the names of persons required to perform interventions or services required by the expanded ARCH resident;

- (3) Review the care plan monthly, or sooner as appropriate;
- (4) Update the care plan as changes occur in the expanded ARCH resident care needs, services and/or interventions;
- (5) Promote continuity of care and appropriate integration and utilization of services necessary to implement the care plan;
- (6) Coordinate care giver training, hospital discharge, respite, home transfers and other services as appropriate. Facilitate, advocate and mediate for expanded ARCH residents, care givers and service providers to ensure linkages and provision of quality care for the optimal function of the expanded ARCH resident;
- (7) Arrange and participate in the expanded ARCH resident's case conferences. Ensure that the expanded ARCH resident, resident's family or surrogate, expanded ARCH resident's physician and the primary care giver are represented at the case conferences;
- (8) Have face-to-face contacts with the expanded ARCH resident at least once every thirty days, with more frequent contacts based on the resident's needs and the care giver's capabilities;
- (9) Provide ongoing evaluation and monitoring of the expanded ARCH resident's status, care giver's skills, competency and quality of services being provided;
- (10) Conduct comprehensive reassessments of the expanded ARCH resident every six months or sooner as appropriate;
- (11) Make arrangements with a case manager and/or registered nurse who meets the requirements of this subchapter (a) to provide coverage in the event that the case manager takes leave or is unable to provide services as required

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in this chapter;

- (12) Inform the department of any change in quality of services being provided to the

expanded ARCH resident.

(c) The department may require a change in case management services when it has been determined that the case manager is unable to provide adequate services as outlined in this subchapter.

(d) When a change in case management services occurs, the new case manager will perform a comprehensive reassessment of the expanded ARCH resident, review the care plan and make necessary amendments. The expanded ARCH resident, resident's family or surrogate, physician or APRN and primary care giver shall be notified if a change in case management services is contemplated. [Eff _____] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

§11-100.1-89 Medications. In addition to the requirements in Subchapter 2 and Subchapter 3, the following shall apply to an expanded ARCH:

- (1) Injectable medications shall be administered by a licensed nurse, unless physician orders permit an expanded ARCH resident to self-inject. The registered nurse case manager may delegate this task according to rules established by the Board of Nursing. The licensee or primary care giver shall maintain written policies and procedures outlining this responsibility; and
- (2) The primary care giver shall obtain training, relevant information, and regular monitoring from the expanded ARCH resident's physician, a home health agency, or a registered nurse case manager for any and all specific medications that the expanded ARCH resident requires. [Eff _____] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

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§11-100.1-90 Expanded ARCH resident's rights. In addition to the resident's rights in section 11-100.1-

21, the expanded ARCH resident shall have the right to:

- (1) Be fully informed, orally and in writing, prior to or at the time of admission, of individual rights and responsibilities and of all rules governing expanded ARCH resident conduct. There shall be documentation that a copy of this document has been received, acknowledged, and signed by the expanded ARCH resident, expanded ARCH resident's family, legal guardian, surrogate or representative. Should the resident require the assistance of an interpreter, the licensee shall ensure that interpreter services including but not limited to translation, sign language or visual services are provided;
- (2) Immediate transfer effected through the case manager, when the expanded ARCH resident's health and safety is threatened, which shall trigger a waiver of the thirty day minimum notice requirement for transfers or discharges;
- (3) Immediate transfer effected through the case manager, when the expanded ARCH resident's health and safety is threatened, which shall trigger a waiver of the fourteen day minimum notice requirement for transfers, requested by the resident, the resident's family or surrogate;
- (4) Choose a primary physician or APRN and case manager; and
- (5) Be afforded privacy curtains or screens when required to share a room with another resident. [Eff _____] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.61, 321-15.62)

Subchapter 5 Professional Misconduct

§11-100.1-91

§11-100.1-91 Professional misconduct. (a) The department shall take action, as specified in

Subchapter 6 against any licensee, primary care giver or substitute care giver who is guilty of misconduct or employs or houses any persons guilty of misconduct that has been brought to the department's attention.

(b) Misconduct includes, but is not limited to, the following:

- (1) Procurement of license by fraud or misrepresentation;
 - (2) Gross negligence;
 - (3) Repeated negligent acts;
 - (4) Mental or clinical incompetence;
 - (5) Any conduct that has endangered or is likely to endanger the health, safety, or welfare of the residents;
 - (6) Habitual intemperance in the use of alcohol or drugs;
 - (7) Conviction of a crime which is substantially related to the qualifications, functions, or duties of an individual providing care to residents;
 - (8) The conviction of a felony or misdemeanor, or petty misdemeanor involving moral turpitude, dishonesty, or corruption, whether or not the act is committed in the course of the individual's activities as one providing care to residents. The department may order a license to be put on probation, suspended, limited or revoked, or may decline to issue a license when the time for appeal has elapsed, or when the judgment of conviction has been confirmed on appeal;
 - (9) Violation of any law regulating the dispensing or administration of narcotics, dangerous drugs, or controlled substances;
 - (10) Violating or attempting to violate, directly or indirectly, or assisting in, or abetting in, the violation of, or conspiring to violate any provision or term of chapter 321, HRS, this chapter, or any lawful order of the department;
 - (11) Making or giving false statement of information in connection with an application for issuance of a license;
 - (12) Aiding or abetting an unlicensed person to
- §11-100.1-92

operate an ARCH or expanded ARCH as defined by chapter 321, HRS, and this chapter; and

- (13) Conduct or character likely to deceive or defraud the public. [Eff
(Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.61, 321-15.62) (Imp: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.61, 321-15.62)]

Subchapter 6
Administrative Enforcement

§11-100.1-92 Enforcement. (a) If the department determines that any person has violated any provision of this chapter, any provision of chapter 321, HRS, or any term or condition of a license issued pursuant to this chapter, the department may do one or more of the following:

- (1) Issue an order assessing an administrative penalty for any past or current violation; or
- (2) Require compliance immediately or within a specific time.

(b) Any order issued pursuant to this section may include a suspension, modification, or revocation of any license issued pursuant to this chapter and any administrative penalty assessed in accordance with section 321-20, HRS. The order shall state with reasonable specificity the nature of the violation, the legal bases for the findings of violation, and the right to request an administrative hearing and retain legal counsel. The order shall be provided to the alleged violator by certified mail.

(c) Any order issued under this chapter shall become final, unless not later than twenty days after receipt of the notice of order by certified mail, the alleged violator requests in writing a hearing before the director. Any penalty imposed under this chapter shall become due and payable twenty days after receipt of the notice of order by certified mail unless the alleged violator requests in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order

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confirming the penalty in whole or in part. Upon request for a hearing, the director or director's

designee shall require that the alleged violator appear before the director for a hearing at a time and place specified in a notice of hearing and answer the charges complained of.

(d) Any hearing conducted under this section shall be conducted as a contested case hearing under chapter 91, HRS. If after a hearing held pursuant to this section, the director or the director's designee finds that the violation or violations have occurred, the director or the director's designee shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders. If, after the hearing on an order or penalty contained in a notice, the director or the director's designee finds that no violation has occurred or is occurring, the director or the director's designee shall rescind the order or penalty or both.

(e) Nothing in this section shall be construed to limit other penalties provided elsewhere.

[Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-15.61, 321-15.62, 321-20)
(Imp: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-15.61, 321-15.62, 321-20)

§11-100.1-93 Emergency procedures. (a) If the department determines that the licensee, primary care giver, staff or other household member has subjected a resident to ill treatment, abuse, gross or repeated neglect, or exploitation, the department shall order the immediate discontinuance of the ARCH or expanded ARCH and revoke the license issued pursuant to this chapter. The order shall be immediately effective and shall designate the date for the discontinuance of the ARCH or expanded ARCH. The department shall provide written notice of the order to the licensee by certified mail prior to the date of discontinuance.

(b) The department shall provide an opportunity for a hearing within twenty four hours after service of the order.

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(c) Any hearing conducted under this section shall be conducted as a contested case hearing under

chapter 91, HRS. If after a hearing held pursuant to this section, the director finds that the violation or violations have occurred, the director shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders as may be appropriate. If, after the hearing on an order or penalty contained in a notice, the director finds that no violation has occurred or is occurring, the director shall rescind the order or penalty or both. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-15.61, 321-15.62) (Imp: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-15.61, 321-15.62)

§11-100.1-94 Penalties. In addition to any other action to enforce these rules, the director may initiate procedures for invoking penalties as provided in chapter 321, HRS. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-15.61, 321-15.62) (Imp: HRS §§321-9, 321-10, 321-11, 321-15.6, 321-15.7, 321-15.61, 321-15.62)

§11-100.1-95 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected thereby. [Eff] (Auth: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.7, 321-15.61, 321-15.62) (Imp: HRS §§321-1, 321-9, 321-10, 321-11, 321-15.1, 321-15.6, 321-15.7, 321-15.61, 321-15.62)

Adult residential care homes licensed at the time of adoption of these rules shall have a period of six months to institute required changes or requirements as set forth in this chapter.

3. The repeal of chapters 11-100 and 11-101, Hawaii Administrative Rules, and the adoption of chapter 11-100.1, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

BRUCE S. ANDERSON, Ph.D., M.P.H.
Director
Department of Health

APPROVED AS TO FORM:

Deputy Attorney General